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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Jazmine Ladarian Jerne Johnson,

10 Plaintiff,

11 v.

12 Bingham Blocks, et al.,

13 Defendants.
14

No. CV-25-02056-PHX-MTL

ORDER

15 Before the Court is Plaintiff's Application to Proceed in District Court Without
16 Prepaying Fees or Costs (Doc. 2), Complaint and Request for Temporary Restraining Order
17 ("TRO") (Doc. 1), and Motion to Correct Clerk Filing (Doc. 6).

18 **I. IFP APPLICATION**

19 A party may initiate suit without prepaying the filing fee if the Court grants leave to
20 proceed *in forma pauperis* ("IFP") based on indigency. 28 U.S.C. § 1915; *Andrews v.*
21 *Cervantes*, 493 F.3d 1047, 1051 (9th Cir. 2007). To proceed IFP, plaintiffs in the District
22 of Arizona must establish their inability to pay by filing an affidavit along with a completed
23 AO 239 form which includes a statement of all income and assets. *See* LRCiv 3.3.

24 Plaintiff's Application does not contain the information required by federal law or
25 the local rules, nor does it explain whether Plaintiff has insufficient funds to prepay the
26 filing fee for this action. Because Plaintiff has not made the requisite showing under
27 28 U.S.C. § 1915 to proceed IFP, the Court will screen the Complaint but ultimately deny
28 the Application.

II. STATUTORY SCREENING OF IFP COMPLAINTS

The Court is required to screen complaints brought *in forma pauperis*.¹ 28 U.S.C. § 1915(e)(2). The Court must dismiss a complaint, or portion thereof, if a plaintiff has raised claims that are legally frivolous or malicious, that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. *Id.*

A. Subject Matter Jurisdiction

“Federal courts are courts of limited jurisdiction,” possessing “only that power authorized by Constitution and statute.” *United States v. Marks*, 530 F.3d 799, 810 (9th Cir. 2008) (quoting *Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 377 (1994)). The court may dismiss a complaint sua sponte for lack of subject matter jurisdiction. *Fiedler v. Clark*, 714 F.2d 77, 78-79 (9th Cir. 1983). The plaintiff bears the burden of establishing subject matter jurisdiction. *Kokkonen*, 511 U.S. at 377. At the pleading stage, the plaintiff must allege sufficient facts to show a proper basis for the court to assert subject matter jurisdiction over the action. *Johnson v. Columbia Props. Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006); Fed. R. Civ. P. 8(a)(1).

Federal question jurisdiction is set forth in 28 U.S.C. § 1331 and grants federal courts jurisdiction to hear cases arising under the Constitution or federal law. The “presence or absence of federal question jurisdiction is governed by the ‘well pleaded complaint rule,’ which provides that federal jurisdiction exists only when a federal question is presented on the face of the plaintiff’s properly pleaded complaint.” *Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987). Diversity jurisdiction is found in 28 U.S.C. § 1332, and grants courts authority to hear cases arising under state law only where there is complete diversity of the parties, and the statutory amount-in-controversy (over \$75,000) is satisfied. 28 U.S.C. § 1332(a)(1). Complete diversity means no defendant can be a resident of the same state as any plaintiff. *Owen Equip. & Erection Co. v. Kroger*, 437 U.S. 365, 373 (1978).

¹ Although § 1915 largely concerns prisoner litigation, § 1915(e) applies to all *in forma pauperis* proceedings. *Calhoun v. Stahl*, 254 F.3d 845 (9th Cir. 2001).

1 B. Pleading Standard

2 A pleading must contain a “short and plain statement of the claim showing that the
3 pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). While Rule 8 does not demand detailed
4 factual allegations, “it demands more than an unadorned, the-defendant-unlawfully-
5 harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). “Threadbare recitals
6 of the elements of a cause of action, supported by mere conclusory statements, do not
7 suffice.” *Id.*

8 “[A] complaint must contain sufficient factual matter, accepted as true, to ‘state a
9 claim to relief that is plausible on its face.’” *Id.* (quoting *Bell Atl. Corp. v. Twombly*, 550
10 U.S. 544, 570 (2007)). A claim is plausible “when the plaintiff pleads factual content that
11 allows the court to draw the reasonable inference that the defendant is liable for the
12 misconduct alleged.” *Id.* “Determining whether a complaint states a plausible claim for
13 relief [is] . . . a context-specific task that requires the reviewing court to draw on its judicial
14 experience and common sense.” *Id.* at 679.

15 III. DISCUSSION

16 Plaintiff’s Complaint asserts separate causes of action against two Defendants. As
17 to Defendant Bingham Blocks, Plaintiff alleges that she been unable to collect certain “trust
18 property, ancestral items, furniture and keys,” pursuant to a lawful court order permitting
19 the retrieval of property. (Doc. 1 at 1-2.) She asserts Bingham Blocks is liable for:
20 (1) violation of a standing court order; (2) obstruction of lawful process; (3) unlawful
21 deprivation of separate property; and (4) ongoing irreparable harm. (*Id.* at 2.) Plaintiff
22 seeks an injunction, among other relief, to “[p]revent further deprivation, [c]ompel
23 compliance with the court order, [and] [p]reserve the property of the private Estate.” (*Id.*
24 at 3.)

25 Plaintiff asserts a “separate property dispute” against Defendant Tides on 27th LLC.
26 (*Id.* at 2.) Although lacking in clarity, Plaintiff seems to allege she rented a property from
27 Tides on 27th and the unit was “not provided,” and “uninhabitable, lacking hot water for
28 over seven (7) consecutive days.” (*Id.*) Plaintiff further alleges she did not receive access

1 to the tenant portal, and management ignored her written notices. (*Id.*) The Complaint
 2 asserts a cause of action against Tides on 27th for: (1) material misrepresentation;
 3 (2) constructive fraud; (3) bad faith; and (4) “equitable misconduct obstructing proper
 4 remedy and trust preservation.” (*Id.*)

5 Upon reviewing the jurisdictional allegations, the Court concludes that the
 6 Complaint must be dismissed for lack of subject matter jurisdiction. Diversity jurisdiction
 7 is lacking. Plaintiff offers no allegations concerning Defendants’ respective citizenships,
 8 and instead, alleges diversity is satisfied by virtue of Plaintiff’s “standing in the Executor
 9 office as non-citizen national.” (*Id.* at 8.) But 28 U.S.C. § 1332 provides only four avenues
 10 in which a plaintiff may establish diversity jurisdiction. Two of these require the plaintiff
 11 be a citizen of a State of the United States, and therefore, a United States citizen. *Id.*(a)(1),
 12 (3). The remaining avenues require a plaintiff to plead she is a “citizen[] or subject[] of a
 13 foreign state” or a “foreign state.” *Id.*(a)(2), (4).

14 Because Plaintiff alleges she is not a citizen of the United States and not a citizen of
 15 a foreign state, Plaintiff effectively “pled [] out the possibility of diversity jurisdiction.”
 16 *Smith-Bey v. Hamlin*, No. 2:23-cv-02600-ODW (PDx), 2023 WL 6370763, at *1 (C.D.
 17 Cal. July 19, 2023) (finding no diversity of citizenship where the plaintiff alleged
 18 citizenship under a sovereign-citizen theory); *see also Bey ex rel. McGill v. Do*, No. 3:23-
 19 cv-00123-SB, 2023 WL 2187488, at *2 (D. Or. Feb. 23, 2023) (stating same).

20 The Court also finds that federal question jurisdiction is lacking, as Plaintiff does
 21 not assert claims arising under the Constitution or federal law. Plaintiff makes a fleeting
 22 reference to “due process violations” but does not specifically identify any federal law or
 23 constitutional right Defendants violated. (Doc. 1 at 3.) Indeed, Plaintiff repeatedly requests
 24 this Court grant relief “in equity, not law” (*Id.* at 1, 3, 4), and the pending Motion explains
 25 that Plaintiff is not raising claims under 42 U.S.C. § 1983 or invoking federal question
 26 jurisdiction (Doc. 6 at 1-2). Plaintiff’s threadbare recitals to due process are insufficient to
 27 establish federal question jurisdiction. *Ashcroft*, 556 U.S. at 678; *see also Bendeck v.*
 28 *Workman*, Civ. No. 17-00180 JMS-RLP, 2017 WL 1758079, at *4 (D. Haw. May 4, 2017)

(explaining that a plaintiff's reference "to various provisions of the United States Constitution and federal statutes merely to support the argument that this court must rule 'in equity' and not law" is insufficient to allege federal question jurisdiction).

Additionally, to the extent Plaintiff asks the Court to "compel compliance" with a standing state court order, that request is barred by the Anti-Injunction Act. The Anti-Injunction Act prohibits federal courts from "grant[ing] an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its [own] judgments." 28 U.S.C. § 2283.² This mandate "extends not only to injunctions affecting pending proceedings, but also to injunctions against the execution or enforcement of state judgments." *Henrichs v. Valley View Dev.*, 474 F.3d 609, 616 (9th Cir. 2007). In essence, Plaintiff seeks a mandatory injunction from this Court, compelling Bingham Blocks to comply with a standing court order issued by the Glendale City Court. Federal law and settled principles of federalism and comity prohibit this Court from granting the requested relief.

The Court will deny Plaintiff's request for a TRO and dismiss the Complaint without prejudice. Plaintiff is advised that a dismissal without prejudice means that a complaint asserting the same claims can be refiled. *See Semtek Int'l Inc. v. Lockheed Martin Corp.*, 531 U.S. 497, 505-06 (2001).

IV. CONCLUSION

Accordingly,

IT IS ORDERED that Plaintiff's Application to Proceed IFP (Doc. 2) is denied.

IT IS FURTHER ORDERED that Plaintiff's request for a TRO is denied and the Complaint (Doc. 1) is dismissed without prejudice.

IT IS FURTHER ORDERED that Plaintiff's Motion to Correct the Clerk (Doc. 6) is denied as moot.

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² None of the three exceptions apply in this instance.

1 **IT IS FINALLY ORDERED** directing the Clerk of Court to enter a judgment of
2 dismissal and close this case.

3 Dated this 17th day of June, 2025.

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7 Michael T. Liburdi
8 United States District Judge
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